



Tennessee Department of Correction

Research Brief

TDOC Release Trends and Failure Rates

Felon Releases 1993 - 1999

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Compiled by TDOC's Planning and Research Section

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Executive Summary

This research brief summarizes the findings of a preliminary analysis by the Tennessee Department of Correction's (TDOC) Planning and Research Section on recidivism rates for felons released from TDOC jurisdiction since 1993.¹ ***Care should be taken in any attempts to compare or contrast the differences reported in the data. There is nothing in the current report that would speak to inferences of causality, nor allow comparisons of that nature.*** This report should be considered the first step in an overall attempt to understand recidivism in the State of Tennessee. For the purposes of this report, "recidivism" is defined as a 'permanent' return to incarceration in any TDOC facility or local jail after being released from a TDOC facility or a local jail. TDOC considers certain types of movements to be "permanent", e.g., parole revocations, new convictions, and court-ordered returns to facilities, as opposed to a re-incarceration for a new arrest which may only result in a temporary incarceration. Thus, many of these offenders will have been returned for technical violations of the conditions of their supervision rather than for the commission of new crimes. In addition, it is important to note that this report is concerned with all felony offenders released from incarceration in the State of Tennessee between 1993 and 1999 (N=72,595). This includes those serving sentences in TDOC institutions *and* local jails.²

- In Fiscal Year 1999-2000, there were more than 12,900 felony offenders released from Tennessee prisons and jails. Approximately 65% of those releases were from incarceration in local jails.
- The most recent recidivism rate for all felons released in Tennessee are:
 - ◆ **20% 1-year failure rate: Of 11,218 releases in 1998, 2,287 returned within one year**
 - ◆ **38% 2-year failure rate: Of 11,723 releases in 1997, 4,438 returned within two years**
 - ◆ **45% 3-year failure rate: Of 11,283 releases in 1996, 5,073 returned within three years.**
- Recidivism rates vary dramatically by type of release.
 - ◆ Felons released to parole:
 - 28% fail within one year (of 3,221 released in 1998, 906 recommitted);
 - 48% fail within two years (of 4,197 released in 1997, 2,030 recommitted);
 - 55% fail within three years (of 4,036 released in 1996, 2,233 recommitted).
 - ◆ Felons released to probation:
 - 23% fail within one year (of 4,421 released in 1998, 1,037 recommitted);
 - 40% fail within two years (of 4,306 released in 1997, 1,717 recommitted);
 - 46% fail within three years (of 4,160 released in 1996, 1,928 recommitted).
 - ◆ Felons who expire their sentences:
 - 9% fail within one year (of 3,776 released in 1998, 344 recommitted);
 - 21% fail within two years (of 3,220 released in 1997, 691 recommitted);
 - 30% fail within three years (of 3,087 released in 1996, 912 recommitted).
- There are only minor differences in rates of return between those who are released from a local jail and those released from a TDOC institution to parole or probation. Felons who expire their sentences and are released from a TDOC facility however, tend to show much lower failure rates than those who expire their sentences in a local jail. This is likely to be related to the demographics of the persons being released rather than the characteristics of the releasing institution (e.g., local jail releases tend to be younger offenders with property or drug offenses).

Introduction

There is a general perception regarding the workings of the criminal justice system that is often expressed as a “revolving door”. Although this image is applicable to the entire criminal justice system, it has become especially salient to the arena of corrections. The costs, efficacy and implications of housing increasing numbers of offenders have increasingly come under fire from various sectors of both the government and the public. When convicted offenders are released from incarceration, the connotation of a “revolving door” process of recycling felons holds harsh implications for imprisonment as a mechanism of the criminal justice system.

There is therefore a great deal of interest in the success of released felons in avoiding further engagement in criminal activities. This is most often expressed in research circles as a study of “recidivism”. Recidivism can be most succinctly expressed as the rate at which offenders re-engage in criminal behavior, i.e., in this case, their failure rate.³ If incarceration is presumed to be just punishment, and a specific deterrent to criminal behavior, then the effectiveness of the correctional system as a specific deterrent can be inferred through the success rate (or failure rate) of released offenders. In that incarceration is also presumed to be rehabilitative through certain types of programming, the efficacy of these programs is also inferred through offenders’ success.

The 1999 Corrections Yearbook shows that recidivism rates vary dramatically across the nation. This may have as much to do with reporting differences as any systemic differences in the treatment and release of inmates across states. Using a three-year follow-up for example, Kansas reports a failure rate of 12%, the national low. Utah reports a national high rate of 67% over a three-year period. Kansas, for example, only reports new convictions and does not include felons reincarcerated for technical violations for the conditions of their community supervision (parole or probation status) while Utah does not define how it measured recidivism. When technical violators are included, the three-year recidivism rate increases to slightly more than 50%. Arizona’s 25.9% three-year failure rate is also based only on new convictions. Other states follow only specific parts of their population; New Hampshire, for example, reports a three-year failure rate of only 20%, but it is only based on their parole population. Thus, not only do states often use different measures of recidivism (most states appear to use re-incarceration as the primary measure, although some states use either new convictions (Arizona, Kansas) or rearrest (North Carolina)), but often they follow only specific segments of the released population. In addition, different states report different rates on different follow-up periods. Trying to compare rates across states then makes little sense given the disparity in measures used.

In a 1997 follow-up study of recidivism conducted by the Tennessee Bureau of Investigation (TBI) of a cohort of offenders released between 1989 and 1991, the TBI reported a 4-year recidivism rate (based on recommitment) of 55.9%.⁴ In a recent presentation to the Oversight Committee on Correction, a Comptroller’s report indicated that the current recidivism rate is approximately 43%. Although it is not exactly clear what this particular rate is based on, this figure appears to be based on the percentage of *admissions* in a given period of time who are re-incarcerated as a probation or parole violator.⁵ This definition however, fails to recognize that persons may be recommitted after successfully completing the terms of their supervised release. In other words, this definition may not capture all those persons who are no longer on probation or parole and yet are being recommitted for another new offense. Further, it fails to recognize the time-based relationships that are relevant and important to an understanding of recidivism, e.g., calculating recidivism on the percentage of admissions does not acknowledge the length of time to failure or why this is important.

This research brief has several primary goals. First, this report is intended as an initial step in reporting to the legislative Oversight Committee, the Department of Correction, the administration and the public the failure rate of felons released from incarceration. As such, this report *does not address the factors that influence the failure rate*, but merely begins to establish an understanding of recidivism and how it varies between different release types. Second, this report proposes to establish the guidelines by which recidivism is to be understood. “Recidivism” is often discussed, but usually without a frame of reference for understanding what the discussion and especially the “recidivism rates” actually mean. Third, whereas most reports follow a single cohort over time, this report looks at trends in the failure rates over time. It is clearly worth making the point that we are examining processes that are subject to different influences and that those influences change over time. Failure rates are not static processes, nor should we infer that they are through examination of a single cohort. “Time”, therefore, plays an important role in the understanding of recidivism in several important ways. For one, it is important to understand a recidivism rate in terms of the time to failure. Comparing recidivism rates based on different times to failure is neither useful nor informative. Further, time to failure is an important measure of success. Persons involved in a particular program for example, may fail and be re-incarcerated, but if that program is associated with a longer time to failure, it may be perceived as having accomplished something important. In addition, the time of release (or the release cohort) is important to understanding recidivism. Although this point will be elaborated later, if different release cohorts have different failure rates (e.g., if those released in 1991 have a 25% one-year failure rate and those released in 1995 have a 35% one-year failure rate), it is important to know which release cohorts are being referenced. In this sense, comparing different release cohorts may result in an understanding of failure that is flawed.

Data and Methods

The data for this research brief is drawn from the Tennessee Offender Management Information System (TOMIS) database. In July 1992 the Department of Correction completed the transition to the current database for tracking offenders and offender information. TOMIS is the most comprehensive database for information on convicted felons in the State of Tennessee. During the time frame of this analysis (1993-1999), there were 72,595 releases system-wide. Data was drawn from TOMIS in July of 2000. There is typically a 3-4 month period for data to “settle”. Delays in the processing of paperwork, illegal judgement orders, etc., all contribute to delays in getting information into the TOMIS system on a timely basis. For this reason, our period of analysis (release cohorts to be analyzed for failure) is from January 1993 through December 1998, but we track failure through December 1999. This gives those offenders released in December 1998 at least one full year in their follow-up. Because data was drawn in July of 2000, we assume that the information on releases and admissions through December of 1999 is accurate.

The focus of this report is to examine different release types in attempting to understand patterns of recidivism. The emphasis on release type (parole, probation, expired sentence) is attributable to the original TBI study which found disparities in failure rates by different release types. It is important to point out that this report is also concerned with the type of releasing institution. In Fiscal Year 1999-00 for example, there were slightly more than 12,900 felony releases from TDOC *jurisdiction* in Tennessee.⁶ Approximately 65% of those releases were either TDOC backup or locally sentenced felons released from local jails; approximately 8,200 felons exited local jails while 4,700 exited TDOC institutions.⁷ Thus, while the common perception is that the recidivism rate normally refers to all felony offenders released from a TDOC institution, the reality is that all offenders may not have been released from TDOC

custody. Because of the large number of offenders released from local jails and the implications of this for public policy concerns, differences in the rate of return for felons released from TDOC institutions and local jails will also be a focus of this report.

It is also important to understand how recidivism is being defined. The failure rate, or recidivism rate, of released felons is most commonly measured in one of three ways: re-arrest, re-conviction, or re-incarceration. For the purposes of this report, **re-incarceration** will be used as the primary measure of recidivism. Thus, “recidivism” is defined as a ‘permanent’ return to incarceration in any TDOC facility or local jail after being released from a TDOC facility or a local jail.⁸ TDOC considers certain types of movements to be “permanent”, e.g., parole revocations, new convictions, and court-ordered returns to facilities. As a result, many of these offenders will have been returned for technical violations of the conditions of their supervision rather than for the commission of new crimes. In contrast, some re-incarcerations may be temporary and would not be included in this particular analysis as an instance of recidivist behavior, e.g., a new arrest which does not result in a conviction, or temporarily holding a technical violator who is not ultimately revoked. It is also important to reiterate that the focus is on releases (see Footnote 4), not individual felons. For example, an offender could be released in June of 1993 and re-incarcerated on a technical violation in May of 1994; released again in June of 1996 and recommitted on a new offense in May 1998, and released again in 1999. In this case, there would be 3 separate releases and two instances of failure, all related to a single individual.

Recidivism studies typically choose a cohort of released felons, and track the failure of cohort members over time. As already noted, references to recidivism rates without a corresponding reference to the time period of failure are uninformative. Comparing a 1-year failure rate for parolees to a 2-year failure rate for probationers, for example, leads to an inability to draw sound and rational conclusions about the rates being compared. Yet, when recidivism rates are discussed, they are often presented and discussed without reference to a relevant time frame. When re-incarceration is the measure of failure, peak failure tends to occur between the first and second year following release. Therefore, a 2-year failure rate will be a better estimator of the recidivism rate when compared to a 1-year failure rate, where offenders have not been given enough “time to fail”.

There are both limitations and advantages to using recommitment as the measure of recidivism or failure. Since we use re-incarceration as our measure of recidivism, failure rates reported here do not include released offenders who may have been convicted of a new crime and sentenced to probation or other community supervision. Re-incarceration may also understate the actual return to criminal behavior. Persons may return to criminal activities, but not be re-arrested; they may be re-arrested but not be re-convicted; they may be re-convicted but not re-incarcerated. It is also true that there will be no record for released felons who leave the state and are re-incarcerated in another jurisdiction. In addition, persons who are re-incarcerated may not be imprisoned for a new criminal offense. Preliminary data suggests that a substantial proportion of all re-incarcerations is due to technical violations of the conditions of an offender’s parole or probation terms.⁹ This is not unusual; Massachusetts, for example, found a 22% one-year failure rate for a sample of 3,443 felons released in 1995.¹⁰ Of the 744 who were returned to prison in the first year, 27% (N=200) were returned for technical violations. Over a three-year period, 20% (298 of 1,504 returned) of all returns were for technical violations. Other states report similar trends. Kansas, for example, reports a 12% three-year recidivism rate when a new sentence led to re-incarceration; however, when those who were returned to custody but did not have a new sentence were included, the three-year failure rate was 50.5%.¹¹ This means that approximately 75% of all re-incarcerations in Kansas were due to technical violations of probation or parole.¹² However, it is important to note that there is at least one study indicating that as many as four out

of five persons who are returned on technical violations of the conditions of their supervision have been involved in criminal activities. Nevertheless, although re-incarceration as a measure of recidivism is somewhat problematic, it is a measure that is easily obtainable, and has been found by some researchers to be the most sensitive measure of recidivism in statistical analyses.¹³

This report will present one, two, and three-year failure rates from time of release. We do this for several reasons. First, the one-year failure rate provides an understanding of the general trend in a minimum time frame, but because peak failure typically occurs between eight and fifteen months following release (when recommitment is the measure of recidivism), the one-year rate may be insufficient for understanding the overall trend. In this case for instance, the December 1998 release cohort is the last release cohort that can be followed in terms of data accuracy for return to custody using a one-year failure rate.¹⁴ The two-year rate has the advantage of incorporating the peak period of failure and yet also being a brief enough period to allow comparisons without having to follow a cohort for a full three years or longer. Most recidivism studies also find that the hazard for failure uniformly decreases after the peak rate occurs sometime within the eight to fifteen month period. What this means is that those who are most likely to return to incarceration tend to fail early after release, i.e., within fifteen months, and that those who continue to remain in the community have a lower probability of failure as time progresses. Thus, failure rates between years one and two may often be fairly similar, but by the third year after release, data typically indicate much lower rates of return.

As indicated earlier, this report is a first step towards understanding recidivism of Tennessee felons. This is the first in a series of briefs that will explore in a more comprehensive manner the failure rates by different groups and sub-populations of offenders.

Release Trends by Release Type by Release Location

Table 1 illustrates the changes that have occurred in the releases of felons by release type (parole, probation, or expiration of sentence) and release location (TDOC facility or local jail) in the past seven years. The total number of releases mirrors national trends in that releases from local jails and TDOC facilities have increased over time. In 1993, almost 3600 felons were released from TDOC institutions; by 1999, that figure had increased by 17% to over 4,200 releases per year. In comparison, slightly more than 5,300 felons were released from local jails in 1993; by the end of 1999, that figure had climbed 37% to approximately 7300 felons per year. It is important to point out that the numbers of releases from both TDOC and local jails have been relatively stable since 1996. There are several trends worth noting:

- On an annual basis, more offenders are released from local jails than from TDOC facilities. In 1999, the number of felony releases from local jails (7,299) was almost 42% higher than releases from TDOC institutions (4,217). Felony offenders sentenced to serve their time in local jails typically have much shorter sentences than those sentenced to TDOC.
- Probation as an alternative sanction to incarceration has shown a steady increase over the past seven years and there are substantially more releases to probation from local jails than from TDOC. In 1999, there were 3,777 probation releases from local jails, and only 442 probationers released from TDOC institutions.¹⁵
- Although the overall trend for releases to parole tends to fluctuate over time, more than double the number of felons released to parole were from TDOC than from local jails. By

the end of 1999, 2,255 parolees were released from TDOC institutions, while only 1,013 parolees were released from local jails.

- Releases to expiration of sentence are increasing, regardless of release location, at a faster rate than either releases to parole or probation. Since 1993, the number of releases due to expiration of sentence has increased by 154%.

As a percentage of total releases between 1993 and 1999, releases to parole have decreased by 28%, releases to probation have increased by 53% and releases by expiration of sentence have increased by 154%. One unmistakable trend is the continuous escalation of releases due to expiration of sentence regardless of release location, from 1,585 in 1993 to 4,029 in 1999. Felons completing their sentence in TDOC have increased 152% since January of 1993, increasing from 664 in 1993 to 1,520 in 1999. Local jails show a 157% increase for felons completing their sentence rather than being released early; increasing from 981 inmates who expired their sentence in 1993 to more than 2,500 in 1999. Probationary releases constitute a very small number of all releases from TDOC institutions and have remained fairly stable since 1993.¹⁶ Probation releases constitute the largest number of releases from local jails (43% of the total released in 1993, 52% in 1999). Parolees constitute a larger proportion of all releases from TDOC than both probationers and expired sentences combined (71% in 1993; 53% in 1999). In contrast, paroles from local jails have declined more than 50% over the 7-year period, dropping from 2,034 in 1993 to 1,013 in 1999.

In sum, since 1993, local jail releases have increased by 37.3%, more than twice the rate of the TDOC increase (17.4%). This is an important distinction to keep in mind when looking at the failure rates of offenders released from jail and TDOC. All things being equal, this means that greater numbers of individuals who served their time in local jails will be returned to incarceration. This has significant policy implications for the State of Tennessee and its criminal justice system.

Failure Rates by Release Type by Release Location

Table 2 provides a summary of the annual failure rates by release type and releasing location since January 1993. The total column shows all felony releases from TDOC institutions, local jails, and systemwide (TDOC + local jail felony releases). There are several points of note:

- *For all releases from TDOC jurisdiction without regard to the type or location of release:*
 - *The one-year failure rates by release year are:*

▪ 1993 (8,909 released, 1,598 returned):	18%
▪ 1994 (8,073 released, 1,505 returned):	20%
▪ 1995 (9,673 released, 2,032 returned):	21%
▪ 1996 (11,283 released, 2,345 returned):	21%
▪ 1997 (11,723 released, 2,544 returned):	22%
▪ 1998 (11,418 released, 2,287 returned):	20%
 - *The two-year failure rates by release year are:*

▪ 1993 (8,909 released, 3,049 returned):	34%
▪ 1994 (8,073 released, 2,781 returned):	34%
▪ 1995 (9,673 released, 3,527 returned):	36%
▪ 1996 (11,283 released, 4,187 returned):	37%

- 1997 (11,723 released, 4,438 returned): 38%
- *The three-year failure rates by release year are:*
 - 1993 (8,909 released, 3,775 returned): 42%
 - 1994 (8,073 released, 3,491 returned): 43%
 - 1995 (9,673 released, 4,313 returned): 45%
 - 1996 (11,283 released, 5,073 returned): 45%
- Release types:
 - Felons released to parole show a three-year failure rate of 55%.
 - Felons released to probation show a three-year failure rate of 46%;
 - Felons who complete their sentence show a three-year failure rate of 30%.
 - ***It is important to note that part of the reason for higher rates of return for parolees and probationers is due to re-incarceration for technical violations of the conditions of their release; no such mechanism for return exists for those who expire their sentences.***
- The difference in the overall rate of return between felons released from local jails and TDOC institutions is relatively minor in most instances. Parolees and probationers show very similar failure rates over identical time frames. Persons who are released by expiring their sentences however show very different patterns; local jail releases are much more likely to return than are releases from TDOC institutions who expire their sentences (34% to 21% over 3 years). *This is likely to be related to the demographics of the persons being released rather than the characteristics of the releasing institution (e.g., local jail releases tend to be younger offenders with property or drug offenses).*

In general, there are several patterns regarding the return rates of released felons that are especially worth noting. The first is the differential rates of return between those who are released to parole, probation and by expiration of sentence. As noted, parolees fail at a much higher rate (55% within three years) than probationers (46%) or those who expire their sentences (30%). There are several plausible explanations for these patterns. The first is that parolees and probationers can be returned on technical violations of the conditions of their release. Thus, some proportion of these violators are being returned for reasons that do not involve a new criminal offense. As noted earlier, this is not uncommon. This has led to an increased focus and emphasis on graduated sanctions for technical violators in some states around the nation. It is also true that persons under supervision are more likely to be caught when engaging in illegal activities because of their supervision. Finally, it is likely that there are substantive differences in the individual and offense demographics of those released that would account for some of the observed differences (elaborating on these differences is beyond the scope of the current analysis).

Although there is little difference in return rates between local jail and TDOC releases to parole or probation, those who expire their sentences show quite a bit of disparity in their rates of return. Within a three-year time frame there is a 34% failure rate for those who complete their sentences in local jails versus a 21% failure rate for those released from TDOC. Since those who are typically incarcerated for felony offenses in local jails are more likely to be younger and drug or property offenders, they are more likely to be involved in a later return to criminal behavior. The TBI Recidivism Study, for example, indicated that persons originally incarcerated for property or drug offenses tend to have higher re-incarceration rates than person or other offenders, and TDOC Annual Reports clearly show that local jails disproportionately incarcerate drug and property offenders when compared to TDOC.¹⁷

Table 1: Release trends by release type by release location, January 1993 - December 1999.

Calendar Year	Release Type						
	Total	Parole	% of Total	Probation	% of Total	Expiration	% of Total
Systemwide Releases							
1993	8,909	4,567	51%	2,757	31%	1,585	18%
1994	8,073	3,011	37%	2,922	36%	2,140	27%
1995	9,673	3,463	36%	3,518	36%	2,692	28%
1996	11,283	4,036	36%	4,160	37%	3,087	27%
1997	11,723	4,197	36%	4,306	37%	3,220	27%
1998	11,418	3,221	28%	4,421	39%	3,776	33%
1999	11,516	3,268	28%	4,219	37%	4,029	35%
TDOC Releases							
1993	3,591	2,533	71%	454	13%	604	17%
1994	2,751	1,618	59%	420	15%	713	26%
1995	3,242	2,033	63%	383	12%	826	25%
1996	3,832	2,464	64%	383	10%	985	26%
1997	4,374	2,770	63%	486	11%	1,118	26%
1998	4,026	2,180	54%	485	12%	1,361	34%
1999	4,217	2,255	53%	442	10%	1,520	36%
Local Jail Releases							
1993	5,318	2,034	38%	2,303	43%	981	18%
1994	5,322	1,393	26%	2,502	47%	1,427	27%
1995	6,431	1,430	22%	3,135	49%	1,866	29%
1996	7,451	1,572	21%	3,777	51%	2,102	28%
1997	7,349	1,427	19%	3,820	52%	2,102	29%
1998	7,392	1,041	14%	3,936	53%	2,415	33%
1999	7,299	1,013	14%	3,777	52%	2,509	34%

[Return to Release Trends Summary](#)

Table 2: Rates of re-incarceration (failure rates) by release type by release location, January 1993 - December 1999.

Calendar Year	Release Type											
	Total			Parole			Probation			Expiration		
	1 yr	2 yr	3 yr	1yr	2yr	3yr	1yr	2yr	3yr	1yr	2yr	3yr
Systemwide Releases												
1993	18%	34%	42%	20%	40%	49%	19%	33%	40%	10%	20%	28%
1994	20%	34%	43%	26%	43%	52%	20%	35%	43%	11%	22%	31%
1995	21%	36%	45%	27%	45%	53%	23%	38%	47%	11%	23%	31%
1996	21%	37%	45%	27%	47%	55%	22%	39%	46%	10%	22%	30%
1997	22%	38%	-	30%	48%	-	22%	40%	-	10%	21%	-
1998	20%	-	-	28%	-	-	23%	-	-	9%	-	-
1999	-	-	-	-	-	-	-	-	-	-	-	-
TDOC Releases												
1993	18%	36%	45%	21%	41%	50%	18%	37%	46%	6%	16%	23%
1994	19%	33%	43%	25%	42%	53%	18%	32%	44%	5%	14%	21%
1995	22%	38%	47%	28%	46%	56%	22%	43%	55%	6%	15%	21%
1996	21%	38%	46%	27%	47%	56%	23%	43%	50%	7%	14%	21%
1997	23%	40%	-	30%	49%	-	24%	44%	-	7%	15%	-
1998	19%	-	-	27%	-	-	22%	-	-	6%	-	-
1999	-	-	-	-	-	-	-	-	-	-	-	-
Local Jail Releases												
1993	18%	33%	40%	19%	38%	47%	19%	32%	39%	12%	23%	30%
1994	20%	35%	43%	27%	43%	50%	20%	35%	43%	13%	26%	37%
1995	21%	36%	44%	27%	43%	50%	23%	38%	46%	13%	27%	35%
1996	20%	37%	44%	27%	47%	55%	22%	38%	46%	12%	25%	34%
1997	21%	37%	-	30%	47%	-	22%	39%	-	12%	25%	-
1998	20%	-	-	30%	-	-	24%	-	-	11%	-	-
1999	-	-	-	-	-	-	-	-	-	-	-	-

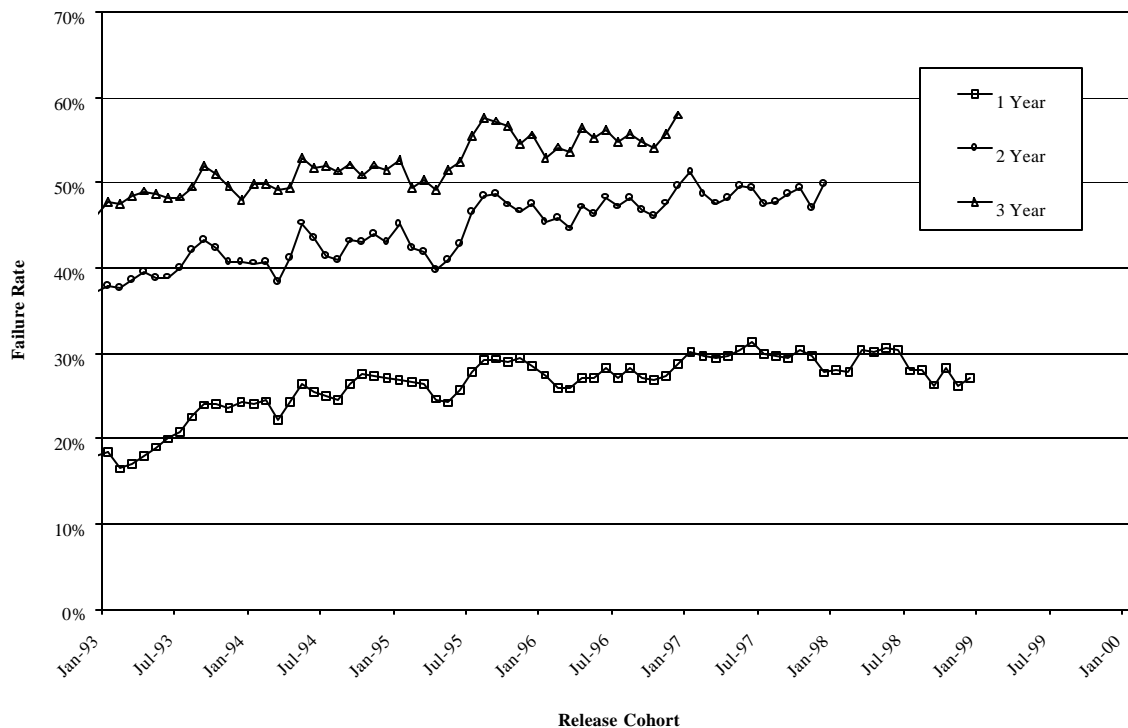
[Return to Failure Rates Summary](#)

The remainder of this brief is focused on presenting the failure rates of releases by examining the changing trends over time. In essence, the remaining figures present graphically and in more detail the data already presented in Table 2.

Systemwide Failure Rates by Release Type

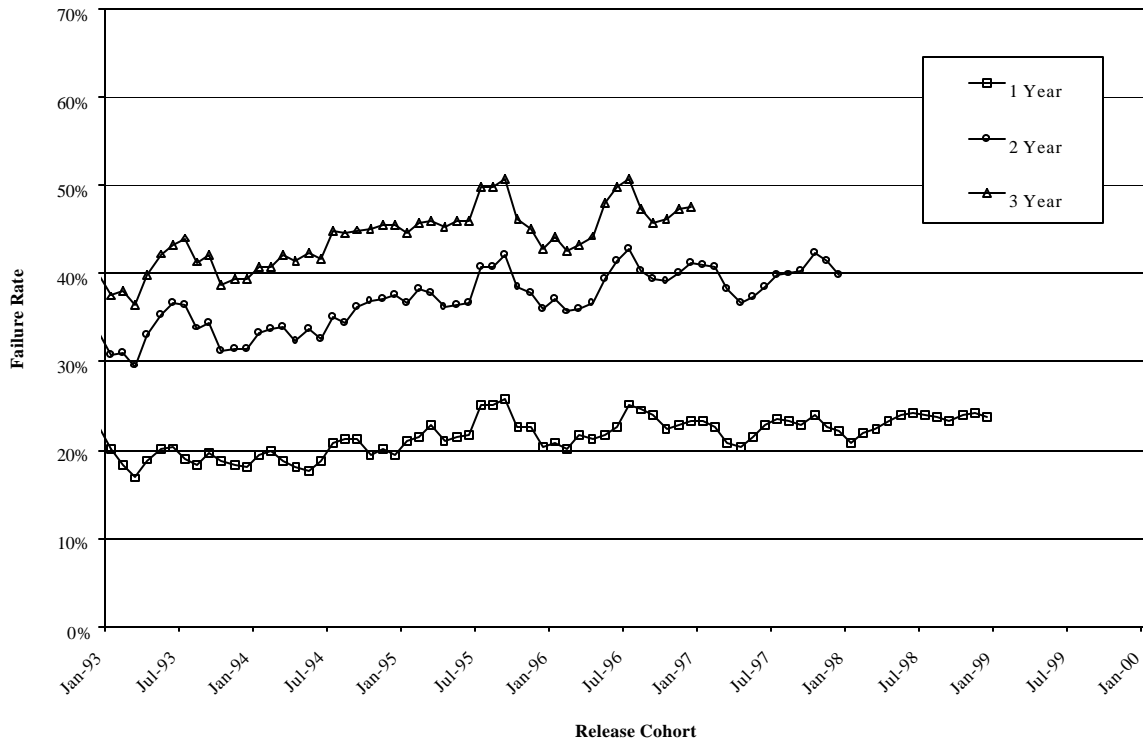
Figure 1 presents the systemwide failure rates of felons released to parole since January 1993. As already indicated in Table 2, felons who are paroled have the highest recidivism rate of all release types. The one-year failure rate is 18% for cohorts released in early 1993 and shows a clear increasing trend through cohorts released in late 1995 to about 30%. The one-year failure rate appears to have leveled at that point and shows a slight decline for release cohorts in 1998 (although this may be nothing more than a slight fluctuation in returns). The two-year failure rate mirrors the one-year trend with an additional 20% of all failures occurring in the second year of release. Finally, the three-year trend continues that of the two-year trend albeit showing a declining rate of return in the third year of release; approximately 8% to 9% of recommitments occur in the third year of release. These data are consistent with the bulk of the recidivism literature on releases of incarcerated felons indicating that peak failure typically occurs within 8 to 15 months followed by a declining hazard rate for failure in all subsequent years.

Figure 1: Failure Rates of All Felons Released to Parole Systemwide (3-month moving average).



The systemwide failure rates for probation releases since January 1993 are illustrated in Figure 2. Although the overall trend for probationers is similar to that of parolees, probationers actually fail at a lower rate. The one-year failure rate for felons released to probation in January 1993 was 20% and increased slightly to 24% by January 1999. The two-year failure rate in January 1993 was 31%, but had increased to 40% by 1998. There is a sharper increase over time for probationers after the first year. Approximately 10% of probation releases were failing during the second year in January 1993, 16% in January 1995, and almost 20% in January 1998. Similar to the trend found for parolees, 8 to 9% of all recommitments of probationers occurred during the third year. The three-year failure rate of probationers was approximately 38% in January 1993 and increased to approximately 48% by January 1997.

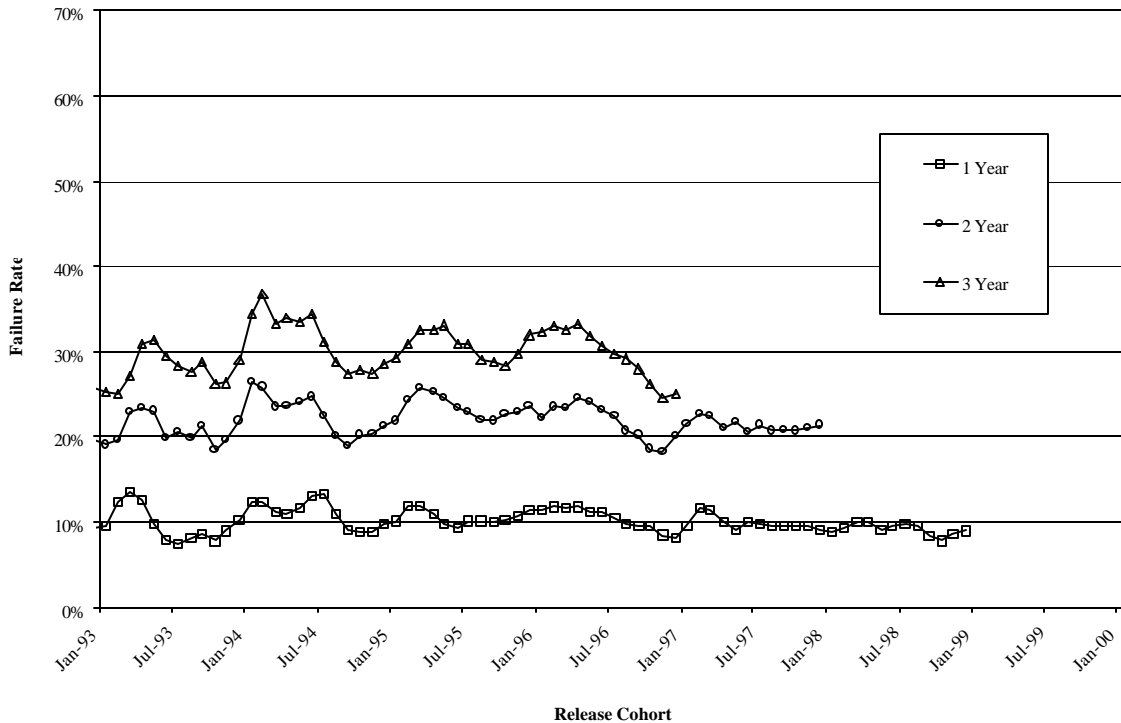
Figure 2: Failure Rate for All Felons Released to Probation Systemwide (3-month moving average).



Systemwide failure rates for felons expiring their sentences since January 1993 are presented in Figure 3. Felons who have expired their sentence have the lowest failure rate of all release types. The one-year failure rate for the last seven years has held constant at approximately 10%. The two-year failure rate slightly exceeds 20%; only about 10% failed during the second year, which also held constant over time. And similar to the rate for parolees and probationers, felons who expire their sentences also fail at a rate of 8-9 percent during the third year. Readers should remember that there are substantive differences in the overall failure

rate of felons who expire their sentences when released from a TDOC institution than from a local jail.

Figure 3: Failure Rates of All Felons Expiring Sentences Systemwide (3-month moving average).

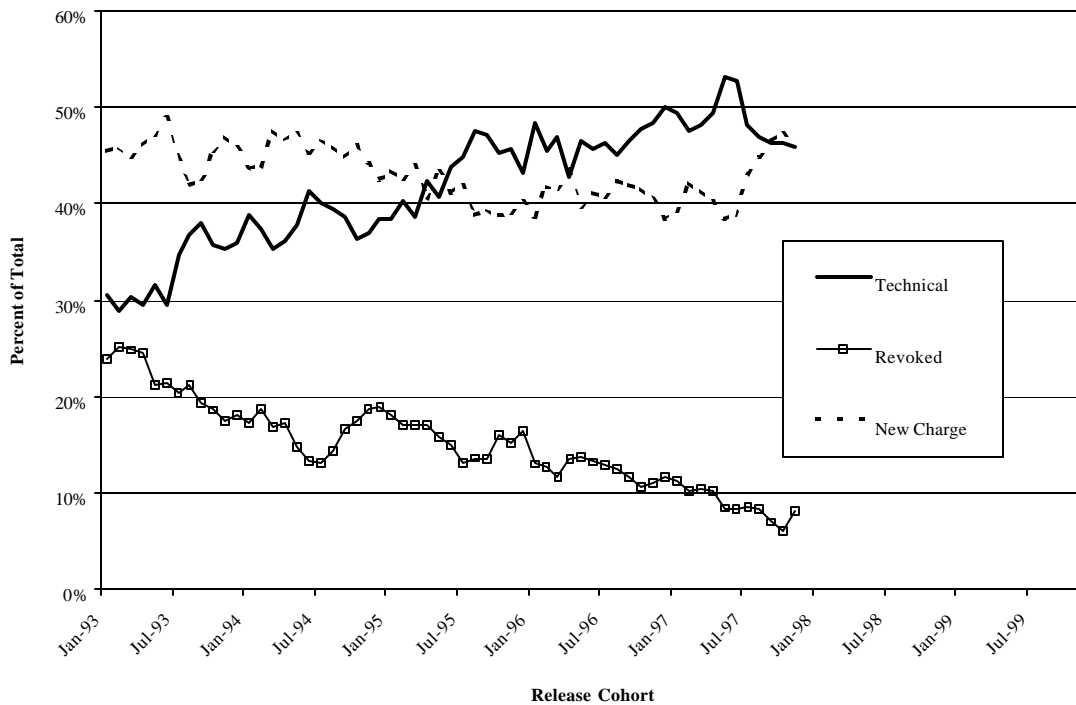


Technical Violations and Return Rates

The increase over time in the return rate of felons released to probation or parole raises issues about the factors that contribute not only to a high return rate, but also to an increased failure rate over time. One potential answer is that rather than being returned to TDOC for the commission of a new criminal offense, offenders are being returned at increasingly higher rates for technical violations of the terms of their parole. Although the data is suggestive of such a trend, it is by no means conclusive.

As an example, Figure 4 shows data on the reasons for return for parole cohorts since 1993 (using a 2-year failure rate). The percentage of parolees returning within two-years due to technical violations has increased over time from approximately 30% of all returns in July 1992 to around 50% by 1997. New charges are a combination of entries that designates that new charges have been issued or that a violation warrant has been issued based on new charges. Revocations based on new charges have shown a general decline since January 1993 although there appears to be a significant upturn in the last few months of Fiscal Year 1997. General revocations, as a reason for return to TDOC, show a steady decline since 1992.

Figure 4: Two year parole returns as a percentage of total returns by parole return type (3-month moving average).



There are however, problems in interpreting this data. General revocation reasons do not indicate whether a parolee was returned on new charges or technical violations. This category, as a reason for returns to TDOC, has shown a substantial decline over the period examined from almost 25% to fewer than 10%. Thus, the strong increase in technical violations as a reason for return may be illusory if those listed as revocations were primarily technical violators all along. In addition, the substantive increase in technical violations could be driven in part by new charges. Because return to TDOC can be accomplished by a technical violation, once the offender is returned to TDOC custody, any new charges may be dropped based on the offender's re-incarceration and the seriousness of the charges. Thus, although the impetus for return to TDOC might be new criminal charges, the stated reason ends up being technical violations. However, the combined increase in technical violations as a return reason, combined with a corresponding overall decline in the percentage of returns listed as new charges, suggests that technical violators have come to constitute a larger proportion of returns to TDOC over time. ***However, the data from TOMIS regarding this issue is not reliable enough to draw firm conclusions at this point regarding the reason for return to TDOC custody.***

It is the case that the Board of Probation and Parole has already addressed this issue of the data reliability in TOMIS by instituting new measures last year to better ensure the accuracy of the information entered into the database regarding the reasons for return to TDOC custody. Future data generated through the database should reflect this increased emphasis on parole and probation returns.

Summary

This report defines recidivism as *re-incarceration* (or recommitment) in either a TDOC facility or a local jail under the conditions of parole or probation revocation, a new conviction, or a court-ordered return to incarceration. Based on this definition, we indicate that the most recent one-year recidivism rate is 20% (1998 releases); the most recent two-year failure rate is 38% (1997 releases); and the most recent three-year failure rate is 45% (1996 releases). For future reporting purposes, and based on what is becoming the national reporting standard, the three-year failure rate is likely to be most commonly used. It is the case however, that for the purposes of comparison, some may find that recidivism rates over shorter time spans may be more useful because of the ease in compiling data and are therefore shown here.

Consistent with prior findings by the Tennessee Bureau of Investigation, data continue to indicate that parolees fail at higher rates than probationers do, and probationers at higher rates than felons who expire their sentences. These differences can be explained in part by the return of parolees and probationers on technical violations of the conditions of their release. There are, for the most part, very few differences in rates of failure between felons released from TDOC institutions and those released from local jails with the exception of those who expire their sentences. In this case, those released from local jail show a significantly higher rate of return. As noted, and again consistent with the prior TBI findings and the research literature, local jails tend to hold higher proportions of felons more likely to fail in the form of younger drug and property offenders.

Although not substantiated with these data, it is likely that a substantial proportion of those who are re-incarcerated after release to probation or parole are recommitment on the basis of technical violations of the conditions of their supervised release without having committed a new offense. The data that is obtainable from TOMIS suggests that technical violations account for a significant proportion of all returns to TDOC. What is not clear however, is how many of those returned on technical violations may have actually committed new offenses, which were not pursued once the offenders were re-incarcerated. It seems reasonable to assume that many misdemeanors or low-level felonies may not be pursued through the courts once the offender is off the streets. As already noted however, the Board of Probation and Parole have made changes in their reporting methods that should allow more clarity in discerning whether new charges (whether pursued or not) were the impetus for violations of community supervision.

In light of this, and given the social and monetary costs associated with housing an inmate compared to continued supervision in the community, it is clearly worth an increased emphasis and policy focus on interventions that work to keep parolees or probationers in the community. According to the Board of Probation and Parole's Fiscal Year 1999-2000 Annual Report, for example, the Board estimates more than \$8 million in savings to the state via successful progressive interventions that kept parolees from returning to incarceration.

Finally, it is important to point out that nothing in this report points to factors that could be construed to be causally related to a return to incarceration, and it would be premature to infer such causation based on the data presented here. For example, it is not clear what factors are related to the gradual rise in the return rates over time for parole and probationer releases. As there appears to be no corresponding increase in the rates of return for those who expire their sentences, gradual changes in how technical violations result in revocations may explain the upward trend in return rates over time. As already noted, this brief is a first step toward a more comprehensive understanding of recidivism in the State of Tennessee. These data

substantiate the need for more in-depth analysis regarding the return of offenders to involvement in criminal behavior and ultimately, state custody.

¹ TDOD *custody* refers to inmates housed in a TDOD institution. TDOD *jurisdiction* includes those in TDOD custody as well as (1) felons sentenced to TDOD but temporarily housed in a local jail waiting transfer to a TDOD institution (TDOD Backup) and (2) felons sentenced to serve their incarceration in a local jail (locally sentenced).

² TCA 40-35-104 provides that certain felony convictions be required to serve their sentence in local jails rather than TDOD facilities. As felony offenders, these persons fall within TDOD jurisdiction.

³ The terms “recidivism rate”, “re-incarceration rate” and “failure rate” are for all purposes the same and are used interchangeably in this brief. In this case, both recidivism and failure refer to re-incarceration in a TDOD facility or local jail after release. The terms re-incarceration and recommitment are also used interchangeably.

⁴ Although the TBI examined both re-arrest and re-incarceration, we focus on the rate of recommitment and all comparisons with the TBI study will be based on the same measure of recommitment or re-incarceration. The TBI study followed a stratified sample of 25% of all offenders (N=3,791) released between July 1, 1989 and June 30, 1991. In essence, the data presented in this analysis and the data presented in the TBI study are similar in that the offenders followed were released from prison or jail to parole, probation or released after the expiration of their sentence. This study examines all releases during the period of the study rather than a sample. Neither analysis included offenders who were initially sentenced to probation without serving a period of incarceration. The TBI study also followed those in the Community Corrections Grant Program: those felons are not included here. A separate report will follow this one focusing specifically on the Community Corrections program because of the increased attention on the program at the current time. In the follow-up study published by the TBI in 1997, 22.8% of all releasees were recommitment within one year; another 19% recommitment in the subsequent year (a 41.8% failure rate in two years); an additional 9.3% in the third year (a 51.1% three-year failure rate); and another 4.8% in the fourth year to yield a total 4-year failure rate of 55.9% of the release sample re-incarcerated.

⁵ Probation violators in this sense may not have been incarcerated previously. Thus, one may be mixing offenders in a manner that further muddies an already vague understanding what “recidivist” means. For the purposes of this study however, probationers are those who have served a period of incarceration in a TDOD institution or local jail before being released to probation supervision.

⁶ This report focuses on releases rather than individuals. For example, Inmate #9999999 may be paroled in January of 1995 and returned to TDOD custody one month later in February of 1995 for a parole violation. Inmate #9999999 may then expire her sentence in September of 1995. Inmate #9999999 will have two separate releases counted in one year.

⁷ In every calendar year since 1993, between 60 and 67 percent of all felony releases from TDOD jurisdiction are from local jails.

⁸ These permanent movements to incarceration include probation and parole revocations, parole or probation transfers to prison/jail, or court ordered returns to incarceration, or new convictions.

⁹ A technical violation is any violation of the conditions of an offender’s supervision, e.g., positive drug screens, not reporting to supervising officer when required, failure to pay fees or fines, etc.

¹⁰ Matthews-Hoover, Hollie A. 1999. “The background characteristics and recidivism rates of releases from Massachusetts correctional institutions during 1995.” Massachusetts Department of Correction: Research and Planning Division. Also at <http://www.magnet.state.ma.us/doc>.

¹¹ Criminal Justice Institute, Inc. 1999. "The Corrections Yearbook: Adult Corrections."

¹² It is important to note however, that felons were returned on new charges, but that once they were re-incarcerated on technical violations, the new charges were not pursued.

¹³ Gendreau, Paul, Tracy Little, and Claire Coggin. 1996. "A meta-analysis of the predictors of adult recidivism: What works!" *Criminology* 34(4):575-607.

¹⁴ Because we allot 3-4 months for the data to "settle", and the data was extracted in July 2000, this allows 6 months for all return information to make its way into TOMIS so that the last release cohort from December 1998 can be followed through December 1999 to give a full one-year period. Thus, for a two-year failure rate, the most recent release cohort would be December 1997; for a three-year failure rate, December 1996.

¹⁵ Probation releases are typically those who serve a determinate sentence and are released to probation or those who return to probation after a short period of incarceration. It does not include any felons sentenced directly to probation. In addition, probationers released from TDOC custody are those who successfully complete the boot camp program or a probation technical violator program.

¹⁶ Probation releases from TDOC are primarily felons who successfully complete the Boot Camp program or successfully complete a program designed for probationers admitted for technical violations.

¹⁷ Tennessee Bureau of Investigation. 1997. "A study of criminal habits: Recidivism and re-arrest rates of Tennessee offenders." See especially Table 16.